

General Information Letter: Worksheet for computing estimated tax is not ambiguous or erroneous. The reason for failure to properly complete the worksheet may provide grounds for reasonable cause abatement of penalty by Board of Appeals.

March 17, 2000

Dear:

This is in response to your letter dated February 28, 2000, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

I believe that I have discovered an error in one of the Department's worksheets that taxpayers are relying upon to prevent estimated tax penalties from being imposed. I believe that the law allows a taxpayer to calculate his estimated tax payments for the next year based upon the tax less credits as reported on the current years income tax return.

Please see a copy of the Department's worksheet enclosed which was published for taxpayer's use during the 1998 taxable year. I have filled in a real life example to make your review easier. Also enclosed, you will find a filled in copy of Form 11-1040 for 1998.

As you can see, this taxpayers tax for 1998 was \$959 and after credits of \$150, the net tax was \$809. This is the minimum amount that a taxpayer must pay during 1999 using estimated tax payments to avoid underpayment penalties.

Your worksheet for 1998 uses next year's exemption amount, of \$1,650 each, on line 2a to compute the tax less credits, so a taxpayer will get an erroneously answer on line 8, in the amount of \$788. The worksheet should be using the current years exemption amount of \$1,350 each. The worksheet would then be correct in computing the correct amount of tax less credits for the current year (1998) of \$809.

Also, enclosed you will find a copy of the taxpayer's income tax return for 1999, so that you can clearly see that a penalty, in fact, is imposed, by relying on the Department's worksheet for 1998.

This error in the Department's worksheet will result in taxpayers being charged with underpayment penalties even though they relied upon the Department's worksheet, in good faith, to pay in, during the subsequent year, the minimum amount of tax.

I believe that this erroneous worksheet should result in reasonable cause for a taxpayer to be allowed an abatement of underpayment penalties where a taxpayer relied upon last years net tax to avoid underpayment penalties.

In addition, I would imagine that since thousands of Illinois taxpayers rely upon this method for computing their estimated tax

payments for the subsequent year, the Department will be very busy dealing with the tax notices after the filing season is over for this year.

Please be advised that the current years (1999) worksheet works the same way as it did in 1998 to guide taxpayers to an underpayment penalty situation for the year 2000 as well.

Response

Section 803(b) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 *et seq.*) defines the amount of "estimated tax" that a person must pay during a taxable year to be:

the excess of:

(1) The amount which the taxpayer estimates to be his tax under this Act for the taxable year, over

(2) The amount which he estimates to be the sum of any amounts to be withheld on account of or credited against such tax.

Section 804(c)(1) of the IITA provides that the minimum quarterly installment payment of estimated taxes that must be made to avoid penalties shall be computed as follows:

(A) In General. Except as provided in paragraph (2), the amount of any required installment shall be 25% of the required annual payment.

(B) Required Annual Payment. For purposes of subparagraph (A), the term "required annual payment" means the lesser of

(i) 90% of the tax shown on the return for the taxable year, or if no return is filed, 90% of the tax for such year, or

(ii) 100% of the tax shown on the return of the taxpayer for the preceding taxable year if a return showing a liability for tax was filed by the taxpayer for the preceding taxable year and such preceding year was a taxable year of 12 months.

The worksheet you refer to is correctly designed to implement Section 803(b) and Section 804(c)(1)(B)(i) of the IITA. Those sections require a computation based on the amount of tax the person actually expects to owe for the year. Line 1 of the worksheet expressly directs the taxpayer to "Enter the Illinois base income you expect to receive in 1999." Similarly, the worksheet requires the taxpayer to use the number of exemptions expected to be claimed for 1999 and the amount of taxes expected to be withheld in 1999. Consistent with these provisions, it uses the basic amount for exemptions applicable to 1999, not 1998.

The worksheet is not designed to implement the "safe harbor" in Section 804(c)(1)(B)(ii) of the IITA, which allows a taxpayer to avoid penalties by paying installments totaling 100% of the prior year's tax liability. There is no need for a worksheet to implement this safe harbor. All that is necessary to compute this amount is to refer to the taxpayer's actual return for the prior year.

The worksheet is not erroneous, and the instructions are clear. It requires the taxpayer to use an estimate of 1999 income. Accordingly, your analysis of the worksheet does not provide a basis for abatement of the penalty. Using the taxpayers' 1998 income in the worksheet for computing estimated tax installments for 1999 would only be valid if the taxpayer reasonably expected to earn that amount in 1999. If that is the case, and the taxpayers can produce some evidence that they reasonably and in good faith expected their 1999 income to be the same as their 1998 income, the Department may be able to abate the penalty. However, you have made no showing that this is true, so there is no basis for abating the penalty.

If you believe that the taxpayers were reasonable in using 1998 income as their best estimate of their 1999 income, please submit a petition to the Board of Appeals for abatement of interest on that ground. A Form BOA-1 is enclosed for your use.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Paul S. Caselton
Deputy Chief Counsel -- Income Tax